

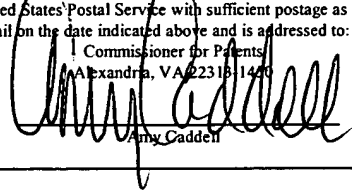


CHW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/660,155	§	Examiner:	D. J. Isabella
Confirmation No.:	4955	§	Art Unit:	3738
Filing Date:	September 11, 2003	§	Atty. Dkt. No.:	5943-00200/EBM
First Named Inventor:	Charles Gordon	§		
Title:	ARTIFICIAL FUNCTIONAL SPINAL UNIT ASSEMBLIES	§		

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8
DATE OF DEPOSIT: 2/28/07
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail on the date indicated above and is addressed to: Commissioner for Patents Alexandria, VA 22313-1450
 Amy Gadden

RESPONSE TO OFFICE ACTION MAILED JANUARY 29, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Claims 14-33 are pending in this application (see Preliminary Amendment received by the Patent and Trademark Office on June 6, 2005). Applicant respectfully submits that the Office Action mailed January 29, 2007 was mistakenly sent by the Patent and Trademark Office. The Office Action appears to be incomplete and/or the Office Action does not appear to apply to the pending claims of the above-referenced application. For example, the Office Action sets forth four separate groups by numbers 1-4, but the Office Action does not identify claims that are in the individual groups. No basis is given for distinction among Groups 1-4. Also, the terms identified with respect to the species noted on page 2 of the Office Action do not appear in the presently pending claims. Thus, Applicant does not have sufficient information to reply to the Office Action.

As noted in the Manual of Patent Examining Procedure §808:

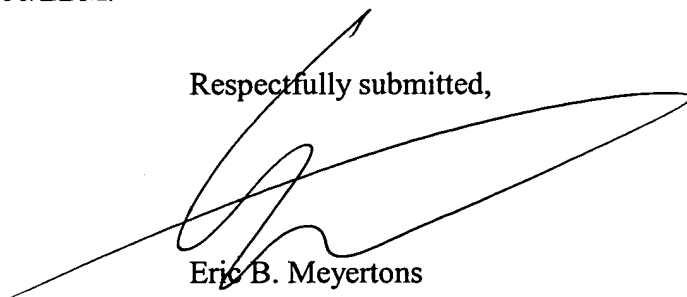
Every requirement to restrict has two aspects: (A) the reasons why each invention is either independent or distinct from the others; and (B) the reasons why there would be a serious burden on the examiner if restriction is not required.

The Office Action does not appear to meet either of these requirements.

With respect to the present Office Action, Applicant cannot make a selection because the Groups contain no reference to the pending claims. Applicant respectfully requests reconsideration of the election/restriction requirement.

If an extension of time is required, Applicant requests the appropriate extension of time. It is believed that no fees are due in association with the filing of this document. Should any fees be required, please charge those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5943-00200/EBM.

Respectfully submitted,



Eric B. Meyertons
Reg. No. 34,876

Attorney for Applicant

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398
(512) 853-8888 (voice)
(512) 853-8801 (facsimile)

Date: 2/27/07